

Remarks

The Office Action mailed July 10, 2007 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1 and 3-24 are now pending in this application. Claims 1 and 3-20 stand rejected. Claims 21-24 are newly added.

The rejection of Claims 1, 3-20 under 35 U.S.C. § 103(a) as being unpatentable over Garber et al. (U.S. Patent No. 7,044,373) ("Garber") in view of Schirer (U.S. Patent No. 6,155,325) is respectfully traversed.

Garber describes using various RFID devices to read information from an RFID tag on an item, specifically, library materials such as books, periodicals, and magnetic and optical media. Garber further describes placing sorted books onto portable carts to be transported to their appropriate locations in the library. The portable carts incorporate portable RFID devices, which in combination with antennas running the length of each cart shelf, enable the cart to take an inventory of the items.

Schirer describes a portable display board (10) that comprises a center portion (12), a left portion (14) hingedly attached to the center portion (12) and a right portion (16) hingedly attached to the center portion (12). A header (20) is hingedly attached to the center portion (12). The header (20) comprises a center header portion (24), a left header portion (22) hingedly attached to the center header portion (24) and a right header portion (26) hingedly attached to the center header portion (24). To assemble portable display board (10), the left portion (14) and the right portion (16) move inwards towards the center portion (12). The header portion (20) folds over and secures onto the left portion (14), the right portion (16) and the center portion (12) in such a way as to hold the left portion (14) and the right portion (16) at a correct angle relative to the center portion (12) for maximum stability. Portable display board (10) is also operable to fold up into a transportable configuration. Notably, Schirer does not describe or suggest how the portable display board (10) is related to a portable cart configured to transport library materials such as books, periodicals, and magnetic and optical media. Portable display board (10) does not include any shelves and Schirer does not describe or suggest how shelves might be incorporated into portable display board (10) nor the desire for doing so. Neither Garber or Shirer describes or suggests how a

portable cart configured to transport library materials such as books, periodicals, and magnetic and optical media would be constructed to be to be collapsible and transportable and neither describes or suggests the desirability of doing so.

Claim 1 recites a system for monitoring inventory in a point of purchase display including "a portable display stand, having at least one shelf, operably configured to support a an article being displayed for sale thereon, the portable display stand configured to be collapsible and transportable...the display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall...at least one article being displayed for sale, said article operably configured to be positioned on the at least one shelf...the at least one article containing a radio frequency identification tag...at least one radio frequency antenna, affixed to at least one of the at least one shelf, the at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall...a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to generate signals representative of the presence and absence of radio frequency identification tags within the display stand...the radio frequency identification tag reader being operably connectable to a remotely situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one article containing a radio frequency identification tag, within the display."

Neither Garber nor Schirer considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 1. Specifically, neither Garber nor Schirer describes or suggests a portable display stand, having at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible and transportable. Rather, in contrast to the present invention, Garber describes a portable cart, which is not described as being collapsible, configured to aid transport and storage of library materials and Schirer describes a portable child's science fair display board that does not include any shelves, but merely includes vertical surfaces for mounting display items and a header for stabilizing the vertical portions. Moreover, neither Garber nor Schirer, considered alone or in combination, describe or suggest a least one article being displayed for sale wherein the article is operably configured to be positioned on the at least one shelf. Rather, in contrast to the present

invention, Garber describes a portable cart configured to aid transport and storage of library materials, which are not described as being articles being displayed for sale and Schirer describes a portable child's science fair display board that includes vertical surfaces for mounting science fair display items to hang vertically. For reasons set forth above, Applicant respectfully submits that Claim 1 is patentable over Garber in view of Schirer.

Claims 3-9 depend from independent Claim 1. When the recitations of Claims 3-9 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 3-9 likewise are patentable over Garber in view of Schirer.

Claim 9 recites a system for monitoring inventory in a point of purchase display wherein the system includes a portable display stand, having at least one shelf, operably configured to support an article being displayed for sale positioned thereon, the portable display stand substantially fabricated from paperboard...the display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall...at least one article being displayed for sale, said article operably configured to be positioned on the at least one shelf...the at least one article containing a radio frequency identification tag...at least one radio frequency antenna, affixed to at least one of the at least one shelf, the at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall...a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to generate signals representative of the presence and absence of radio frequency identification tags within the display stand...the radio frequency identification tag reader being operably connectable to a remotely situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one article containing a radio frequency identification tag, within the display."

Neither Garber nor Schirer, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 9. Specifically, neither Garber nor Schirer describes or suggests a portable display stand, having at least one shelf, operably configured to support at least one article being displayed for sale wherein the article is operably configured to be positioned on the at least one shelf and wherein the portable display stand is substantially fabricated from paperboard. Rather, in

contrast to the present invention, Garber describes a portable cart, which is not described as being collapsible, configured to aid transport and storage of library materials and Schirer describes a portable child's science fair display board that does not include any shelves, but merely includes vertical surfaces for mounting display items. For reasons set forth above, Applicant respectfully submits that Claim 9 is patentable over Garber in view of Schirer.

Claim 10 recites "a system for monitoring inventory in a point of purchase display wherein the inventory includes at least one article being displayed for sale having a radio frequency identification (RFID) tag attached thereto and wherein the system includes a portable display stand, having at least one shelf, operably configured to support the at least one article thereon, the portable display stand configured to be collapsible and transportable...the portable display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, and a front wall...at least one radio frequency (RF) antenna in contact with at least one of the at least one shelf, the at least one of a bottom wall, a side wall, a back wall, a top wall, and a front wall, wherein the at least one RF antenna is configured to...receive RF energy from an RFID reader...transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on the at least one shelf...receive RF signal from the interrogated RFID tag, the received RF signal indicating a presence of the at least one article."

Neither Garber nor Schirer, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 9. Specifically, neither Garber nor Schirer describes or suggests a portable display stand, having at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand substantially fabricated from paperboard. Rather, in contrast to the present invention, Garber describes a portable cart, which is not described as being collapsible, configured to aid transport and storage of library materials and Schirer describes a portable child's science fair display board that does not include any shelves, but merely includes vertical surfaces for mounting display items. For reasons set forth above, Applicant respectfully submits that Claim 9 is patentable over Garber in view of Schirer.

Claims 11-20 depend from independent Claim 10. When the recitations of Claims 11-20 are considered in combination with the recitations of Claim 10, Applicant submits that dependent Claims 11-20 likewise are patentable over Garber in view of Schirer.

Notwithstanding the above, Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. Applicant respectfully submits that combining Garber and Schirer still does not describe or suggest the claimed embodiments of the present invention.

As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Garber nor Schirer considered alone or in combination, describe or suggest the claimed combination. Further, it is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. It appears that the present rejection reflects an impermissible attempt to use the instant claims as a guide or roadmap in formulating the rejection using impermissible hindsight reconstruction of the invention. The United States Supreme Court has recently expressed concern regarding distortion caused by hindsight bias in an obvious analysis, and notes that factfinders should be cautious of arguments reliant upon ex post reasoning. See KSR International Co. v. Teleflex, Inc., slip Opinion at page 17.

Applicant submits that the presently claimed invention is not obvious over any combination of Garber and/or Schirer. For example, Claim 1 recites “a portable display stand, having at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible and transportable.” Garber describes a non-collapsible cart for transporting notably heavy articles such as library materials such as books and periodicals, which are not being displayed for sale, but rather are being transported for reshelving. Schirer describes a display board for displaying a child’s science fair project that does not even have a shelf. As would be apparent to one skilled in the art, the use of the term “collapsible” in Claim 1 does not refer to the instance where the point of purchase display collapses under the weight of the articles the at least one shelf is intended to support. Supporting library materials on a cart made of the material described in Schirer may make the cart “collapsible” but will not make it functional. The Office Action only offers the conclusory statements that “it would have been obvious, at the time of the invention, to a person of ordinary skill in the art to modify Gardner et al. by using a

collapsible and transportable portable display stand, in order to add efficiency to the system.” However, neither Garber nor Schirer describe a system that is lacking in efficiency, it is unclear why the Office Action points to a problem that neither of the cited art mentions and whose combination has not been suggested being a solution to that problem. The United States Supreme Court has recently held that obviousness rejections must be supported with “articulated reasoning with some rational underpinning to support the conclusion of obviousness.” See KSR International Co. v. Teleflex, Inc., slip Opinion at page 14. The present rejection does not appear to meet this standard as it reflects no articulate reasoning why the independent or dependent claims are believed to be obvious, but rather is stated in the form of a conclusion of obviousness. Applicant accordingly requests specific explanation and articulation regarding the reasoning and rational underpinning for any obviousness rejection of the claims. It is not believed that adequate reasons why the presently claimed invention is believed to be obvious have been provided on the present record.

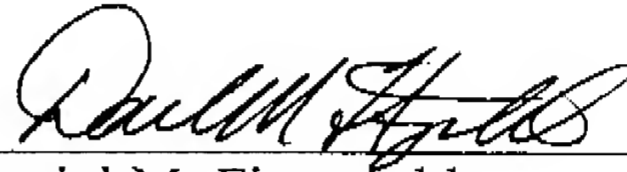
The Supreme Court also explained that, following “common sense,” “familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle.” *Id.* at page 16. Applicants respectfully submit that the teachings of Garber and Schirer do not fit together like pieces of a puzzle, but rather are isolated disclosures, which have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claims 1 and 3-20 under 35 U.S.C. § 103(a) be withdrawn.

Claims 21-24 depend from independent claims 1, 9, or 10, which are submitted to be in a condition for allowance. When the recitations of Claims 21-24 are considered in combination with the recitations of its respective independent claim, Applicant submits that dependent Claims 21-24 likewise are patentable over Garber in view of Schirer.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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